

## **GENERAL TERMS AND CONDITIONS OF BUSINESS**

General terms and conditions of business of the company PTH Prüftechnischer Handel GmbH, Vennstraße 52, 46499 Hamminkeln

### **§ 1 General information – scope**

1. The following Terms and Conditions of Business are valid for all contracts, deliveries and other services of the PTH Prüftechnischer Handel GmbH (referred to hereafter as PTH GmbH).
2. All collateral agreements require a written confirmation by the PTH GmbH.
3. We will not accept contradictory or deviating conditions of the customer, the only exception being when we explicitly confirm their validity in writing. Our terms and conditions of business are also deemed to be valid when we deliver to the customer without reservation, even though we are aware that they have terms and conditions of business which contradict ours or deviate from them.
4. Our terms and conditions of business are only valid for companies within the meaning of § 310, paragraph 1 of the German Civil Code (BGB, Bürgerliches Gesetzbuch) and for legal entities under public law and special assets of public law.

### **§ 2 Conclusion of contract and verbal commitments**

1. Our offers are without obligation and non-binding unless otherwise agreed or when they contain a definite term of acceptance.
2. A contract is deemed as valid as soon as the customer has received our written confirmation of order or when we execute the delivery or service due to the order without any separate confirmation.
3. Verbal agreements or conformations are not deemed as valid until they are confirmed in writing.
4. If the customer places the order electronically, the contract text and the terms and conditions will be saved in reproducible form and sent to the customer by e-mail upon request.

### **§ 3 Prices and conditions of payment**

1. Our prices apply to the scope of service and delivery listed in our order confirmations.
2. All prices quoted are exclusive of Value Added Tax (VAT) at the current legal rate.
3. The purchase price is to be paid within the term of payment and, if applicable, with an agreed discount. These details will be communicated to the customer with the confirmation of order or invoice.
4. Unless otherwise agreed, our prices are considered "ex works" excluding packaging, freight, postage, insurance and other shipping costs. These freight and packing costs will be billed separately.
5. No packaging shall be taken back. All packagings are sales packagings in accordance with packaging regulations.
6. We are entitled to apply price adjustments in case of changes in price-determining factors, when prices change within a period of 2 months or more between conclusion of contract and delivery. Among other things, these price-determining factors include material and raw material prices, rises in foreign currencies, wages and associated employer outlay.
7. In cases of default of payment and/or reasonable doubts regarding the solvency or creditability of the customer, we are entitled – without prejudice to any other rights – to demand securities or prepayment for outstanding deliveries and to declare that all claims arising from the business connection immediately become due.

#### **§ 4 Transfer of risk**

1. Uninsured loading and dispatch are carried out at the risk of the customer. At the customer's request and at their expense, we are prepared to insure the consignment of goods against breakage and damages from transport, fire and water.
2. The risk is transferred to the customer with dispatch of the goods by the PTH GmbH.

#### **§ 5 Delivery and delivery time**

1. Delivery periods and deadlines stated by us are non-binding, unless we have expressly confirmed them as obligatory in writing. The start of the delivery period stated by us presupposes the timely and proper fulfillment of the customer's obligations. The right to raise objection against the breach of contract is reserved.
2. In case of force majeure or similar events, which make it difficult or impossible for us to perform our services, we are entitled to withdraw from the contract. In the case of temporary hindrances, the delivery period shall be extended or postponed by the time period of the obstruction, plus a reasonable restarting period. The customer may withdraw from the contract in case they cannot be expected to accept the delivery or service due to the delay. As far as possible, we shall immediately notify the customer in written form of such occurrences.
3. The choice of transport route and delivery method shall be at the discretion of the PTH GmbH. The company reserves the right to carry out partial deliveries if this appears to be advantageous for a quick processing of an order.
4. During the delivery period, the PTH GmbH reserves the right to make practical alterations to the goods or changes of technical necessity, providing that these are reasonable for the customer and their interests.

#### **§ 6 Warranty, notice of defects and recourse**

1. The customer's warranty rights shall require that the customer meets the obligations of examination and reproof according to § 377 HGB (Handelsgesetzbuch – German Commercial Code). All information, assignment, processing and use of our products, technical advice and other information is given to the best of our knowledge, but this does not exempt the customer from their own examinations and inspections. Notifications of defect shall only be processed and shall only be effective insofar as they are made in writing, accompanied by evidence. The complaint is to be made within 8 days after receipt of the goods. In case of hidden defects, the claim in this regard must be made within 8 days after discovering the defect, but no later than 6 months after receipt of the goods.
2. Deficiency claims shall expire 12 months after the goods supplied by us were delivered to our customer. Aforementioned regulations shall not apply insofar as the law defines longer periods according to §§ 438 paragraph 1 no. 2 BGB (Bürgerliches Gesetzbuch – German Civil Code), 479 paragraph 1 BGB and 634a paragraph 1 BGB. Our consent must be obtained prior to any return of goods.
3. In case the delivered goods contain, despite all due care, a defect that was already present at the time of the risk transfer, we will – at our discretion – repair or replace the goods, subject to timely notice of defects. In all cases, we shall always have the opportunity of supplementary performance within a reasonable period of time. Claims for recourse remain unaffected by the aforementioned regulations without limitation.
4. In case the supplementary performance fails, the customer – without prejudice to any claims for compensation – can withdraw from the contract or can reduce the payment within a notice period of 14 days.

5. Defect claims do not apply in case of minor deviations from the agreed condition, in case of insignificant impairment of usability, natural abrasion as in the case of damage after the risk transfer as a result of faulty or negligent treatment, excessive use, unsuitable equipment, defective construction work, unsuitable building ground or due to special external influences that are not presupposed in the contract. In case the customer or any third party carries out improper repairs or changes, there are no claims for defects for these or resulting consequences.
6. A customer's claim for the expenses required for the purpose of supplementary performance, in particular transport, travel, labor and material costs, are excluded insofar as the expenses increase because the goods delivered by us have subsequently been moved to a location other than the purchaser's subsidiary unless the transfer complies with their intended use.
7. A customer's claim for recourse against us does only exist to the extent that the customer has not made any agreements with their purchaser beyond the legally binding claims for defects. Regarding the extent of the customer's claim of recourse against the supplier, paragraph 6 shall apply accordingly.
8. Warranty claims are excluded if a change or processing of the goods has been made by the customer or third parties without prior written permission.

### **§ 7 Damages**

As far as it is legally permitted, our obligation to pay damages – for whatever legal reason – is limited to the invoice value of our quantity of goods directly involved in the incident causing the damage. This does not apply in case we are obliged to accept unlimited liability in accordance with mandatory law due to our deliberate or serious negligence.

### **§ 8 Reservation of proprietary rights**

1. We reserve the ownership of all delivered goods until receipt of all payments from the delivery contract. In case the customer acts contrary to the agreement, in particular in case of default in payment, we are entitled to take back the goods. This repossession is a withdrawal from the contract. We are entitled to use the goods after repossessing them. Sales revenue of those goods – minus an appropriate handling charge – will be deducted from the customer's liabilities.
2. The customer is obliged to treat the received goods with care. In particular, they are obliged to insure these at the original value and at their own expense against damage caused by fire, water and theft. In case maintenance and inspection work is required, the customer is obliged to conduct this work timely and at their own expense.
3. In case of attachment or other interventions by third parties, the customer is obliged to inform us immediately in writing. In case the third party is unable to reimburse us for the judicial and extrajudicial costs of a lawsuit according to § 771 ZPO (Zivilprozessordnung – German Code of Civil Procedure), the customer shall be liable for our loss.
4. The customer is entitled to resell the delivered goods in the ordinary course of business. However, the customer hereby assigns to us all claims to the value of the final invoice amount (including VAT) of our claim arising from the resale against their own customers or third parties. This applies regardless of whether the goods have been resold without processing. The customer shall remain authorized to collect outstanding claims after the assignment. Our authority to collect the claim ourselves remains unaffected. We commit ourselves to not collect the claim as long as the customer meets their payment obligations arising from the agreed proceeds, is not delayed in payment and, in particular, as long as no application is filed for the opening of insolvency proceedings and when there is no suspension of payment. However, if this is the case, we are entitled to request that the customer informs us of the assigned claims and the debtors, that they disclose to PTH GmbH all relevant information and documents and that they inform the debtors (third parties) of the assignment.

5. The processing or transformation of delivered goods conducted by the customer is always done on our behalf. If these goods are inseparably combined with other items not belonging to us, we shall acquire co-ownership of the new item in proportion of the value of our delivered goods (final invoice amount including VAT) to the other goods at the time of processing. The objects created during this process shall be subject to the same provisions as the goods delivered with reservation.
6. If goods delivered by us are inseparably combined with other items not belonging to us, we shall acquire co-ownership of the new item in proportion of the value of our delivered goods (final invoice amount including VAT) to the other goods at the time of processing.

### **§ 9 Installation, launching**

1. The installation of devices supplied by us is usually carried out by the customer. In case the installation is requested to be carried out by a technical customer service (assigned by us), there has to be a separate agreement regarding this special case, unless it is specified in our offer that the installation and ready-to-use handover is part of the delivery scope.
2. In case it has been agreed upon as part of the delivery scope or has been ordered separately, we or one of our contracted companies will install the delivered goods ready for operation. The customer can inquire possible installation services and their prices in advance.

### **§ 10 Data protection**

Any personal data received in the context of the business relationship will be processed by us in compliance with legal regulations.

### **§ 11 Legal venue, place of performance, validity**

1. In case the customer is a merchant, our place of business is the legal venue; however, we are entitled to sue the customer at their domicile / place of business.
2. Any contract shall be governed solely by the law of the Federal Republic of Germany; the validity of the UN sales law is excluded.
3. Unless otherwise stated in the order confirmation, our place of business is the place of performance.
4. Should any of the aforementioned provisions – for whatever reason – be or become ineffective, this shall not affect the validity of the remaining regulations. Should one or more provisions of the present terms and conditions become invalid or illegal or be otherwise rendered ineffective, the contract as a whole shall not be affected. The ineffective or incomplete regulation will be replaced by a provision which comes closest to fulfilling the purpose of the original one.

**As of 01.10.2017**

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